

No. 14-1148

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

GEORGE W. FINCH and JOHN DENNIS HONEYCUTT,

Petitioners,

v.

UNITED STATES DEPARTMENT OF AGRICULTURE,

Respondent,

ON PETITION FOR REVIEW OF AN ORDER OF THE DEPARTMENT OF
AGRICULTURE

SUPPLEMENTAL JOINT APPENDIX

JOYCE R. BRANDA
*Acting Assistant Attorney
General*

MICHAEL S. RAAB
THOMAS PULHAM
*Attorneys, Appellate Staff
Civil Division, Room 7323
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 514-4332*

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1400 Independence Avenue, SW.
Room 1510-S, STOP 0242
Washington, D.C. 20250-0201

In reply refer to
File PACA T-E-2012-14

October 3, 2012

Michael A. Hirsch
Schlanger, Silver, Barg & Paine, L.L.P.
109 North Post Oak Lane, Suite 300
Houston, TX 77024

Dear Mr. Hirsch:

I have determined that your client, John D. Honeycutt, was responsibly connected with Third Coast Produce Company, Ltd. (Third Coast), Houston, Texas, during the period Third Coast violated the Perishable Agricultural Commodities Act (PACA).

On February 16, 2012, USDA filed an administrative complaint against Third Coast alleging failure to pay \$514,943.40 to 21 sellers for 207 lots of produce that Third Coast purchased in the course of interstate commerce from February 2010 to July 2010. USDA cited Third Coast for repeated and flagrant violations on June 5, 2012. PACA license records show that your client was a limited partner and 32.33% shareholder of Third Coast during the violation period.

Section 1(9) of the PACA, in part, defines responsibly connected as "...affiliated or connected with a commission merchant, dealer, or broker as (A) partner in a partnership, or (B) officer, or holder of more than 10 per centum of the outstanding stock of a corporation or association."

Responsibility is placed upon partners in a partnership because their status with the company requires that they know, or should know, about violations being committed and, that they be held responsible for their failure to counteract or obviate the fault of others.

Under the circumstances, I have determined that your client was responsibly connected with Third Coast during the violation period. This is a final determination of your client's responsibly connected status by the PACA Division. Any challenge of this determination must follow the procedures outlined below and described in full detail in the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary found at 7 C.F.R. Subpart H.

Michael A. Hirsch
Page 2

If your client disagrees with my determination, a petition for review may be filed with the U.S. Department of Agriculture, OALJ, Hearing Clerk, Room 1031, South Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9200. The petition must be filed within 30 days from the date this letter is received, in accordance with Section 47.49 of the Rules of Practice Under the Perishable Agricultural Commodities Act, 1930.

Sincerely,

Karla D. Whalen

Karla D. Whalen
Director
PACA Division

cc: John D. Honeycutt

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In reply refer to
File PACA T-E-2012-13

October 3, 2012

Michael A. Hirsch
Schlanger, Silver, Barg & Paine, L.L.P.
109 North Post Oak Lane, Suite 300
Houston, TX 77024

Dear Mr. Hirsch:

I have determined that your client, George Finch, was responsibly connected with Third Coast Produce Company, Ltd. (Third Coast), Houston, Texas, during the period Third Coast violated the Perishable Agricultural Commodities Act (PACA).

On February 16, 2012, USDA filed an administrative complaint against Third Coast alleging failure to pay \$514,943.40 to 21 sellers for 207 lots of produce that Third Coast purchased in the course of interstate commerce from February 2010 to July 2010. USDA cited Third Coast for repeated and flagrant violations on June 5, 2012. PACA license records show that your client was a limited partner and 32.33% shareholder of Third Coast during the violation period.

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Sincerely,

Karla D. Whalen

Karla D. Whalen
Director
PACA Division

cc: George Finch

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February 2015, I electronically filed the foregoing SUPPLEMENTAL JOINT APPENDIX with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system. Service was accomplished on all counsel through the CM/ECF system. I further certify that I will cause seven paper copies to be filed with the Court within three business days.

/s/ Thomas Pulham

THOMAS PULHAM

(202) 514-4332

thomas.pulham@usdoj.gov

Attorney, Appellate Staff

Civil Division, Room 7323

Department of Justice

950 Pennsylvania Ave., N.W.

Washington, D.C. 20530

Attorney for Respondent